

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

RFA No. 186 of 2000 with RFA Nos. 187, 188, 189, 190, 191, 192, 193, 195, 196, 197, 198, 210, 211, 212, 213 of 2000 and RFA No. 41 of 2001.

Judgement reserved on: 3.8.2007.

Date of decision: 6.8.2007.

[For title, please see pages (i) & (ii)]

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The Hon'ble Mr. Justice Kuldip Singh, Judge.

Whether approved for reporting?

For the Appellants : Mr. M.S.Chandel, Advocate General, with M.L.Chauhan, Addl. Advocate General.

**For the Respondents : Mr. Ramakant Sharma, Advocate.
(In all appeals except in RFA No. 197 of 2000) .**

Kuldip Singh, Judge.

This judgement shall dispose of seventeen appeals, i.e. RFA Nos. 186, 187, 188, 189, 190, 191, 192, 193, 195, 196, 197, 198, 210, 211, 212, 213 of 2000 and RFA No. 41 of 2001, which have been filed by State of Himachal Pradesh against common award, dated 18.6.1999, passed by the learned District Judge, Bilaspur, in Land Reference Nos. 24 of 1997, 22 of 1997, 23 of 1997, 25 of 1997, 27 of 1997, 28 of 1997, 29 of 1997, 31 of 1997, 34 of 1997, 36 of 1997, 37 of 1997, 38 of 1997, 26 of 1997, 30 of 1997, 32 of 1997, 35 of 1997 and 39 of 1997, respectively. The parties are referred in the same manner, as in the impugned award.

Whether the reporters of the local papers may be allowed to see the Judgment?

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2. The brief facts of the case are that State of Himachal Pradesh issued Notification under Section 4 of the Land Acquisition Act, 1894 (for short, the Act), which was published on 23.3.1985 for acquisition of land in village Talwara, Tehsil Ghumarwin, District Bilaspur, for construction of “Bara-Da-Ghat- Bhapral Kuthera” Road. The Land Acquisition Collector (for short, the Collector), Bilaspur, announced the award on 15.11.1988. The Collector had awarded Rs. 6750/- per Bigha for cultivated land and Rs. 3627/- per Bigha for other quality of land. The land owners were aggrieved by the market value assessed by the Collector, therefore, they filed reference petitions, which were consolidated by the District Judge and ultimately decided by the common award, dated 18.6.1999. The District Judge has awarded Rs. 30,000/- per Bigha for cultivated land and Rs.15,000/- per Bigha for uncultivated land. The State is aggrieved by the impugned award, hence the above appeals.

3. The learned Advocate General has submitted that District Judge has erred in relying sale deeds Ex. PW 3/A and Ex. PW 3/B for assessing the market value of the acquired land. These sale deeds are of small area transactions and are not of village Talwara but are of some other village. The sale deed Ex. RA is of village Talwara where the acquired land is situated but has been wrongly ignored by the District Judge for assessing the market value of the acquired land. The learned District has awarded excess compensation to the petitioners. Notification under Section 4 of the Act was published on 23.3.1985, but 12% increase under Section 23 (1-A) of the Act has been wrongly awarded by the Collector from 1.5.1981 to 15.11.1988. The learned

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counsel for the petitioners- land owners has supported the impugned award.

4. The perusal of para-3 of the impugned award would show that small holdings of land owners from 3 Biswas to 3 Bighas 2 Biswas were acquired by the State for construction of “Bara-Da-Ghat- Bhapral Kuthera” Road. PW 1 Bansi Ram is one of the land owners, whose land was acquired. He has stated that his land measuring 1 Bigha 1 Biswa was acquired, which was good quality land. Their village is plain. The adjacent village is Dharwara. The compensation in adjacent village Chhadal was given more in comparison to their land. He has submitted that less compensation was given to them.

5. PW 2 Hari Ram is another land owner, whose land was acquired. He has corroborated the statement of PW 1. PW 3 Karam Deen has stated that he sold 2 Biswas land in village Dharwara to Jagar Nath vide sale deed Ex. PW 3/B and another 2 Biswas land to Baldev Singh and Karan Singh vide sale deed Ex. PW 3/A, both these sale deeds are of 28.12.1983. PW 4 Jagar Nath has stated that he purchased from Karam Deen 2 Biswas land, vide sale deed Ex. PW 3/B at the rate of Rs. 3,000/- per biswa. He has stated that village Talwara is adjacent to village Dharwara. The petitioners have tendered in evidence Ex. PA, copy of award dated 22.9.1986. The respondents have tendered in evidence copies of sale deed Ex. RA and notification dated 15.2.1985 Ex. RB, and closed their evidence.

6. The learned Advocate General has submitted that learned District Judge has erred in relying sale deeds Ex. PW 3/A and Ex. PW 3/B, which are of small area transactions in comparison to

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acquired land. He has submitted that learned District Judge has erred in not relying sale deed Ex. RA, which is of Talwara village where the land was acquired. The vendor of sale deeds Ex. PW 3/A and Ex. PW 3/B Karam Deen appeared in the witness box and vendee Jagar Nath of sale deed Ex. PW 3/B has also appeared in the witness box. It has come on record that village Dharwara is adjacent to village Talwara, where the acquired land is situated. No doubt, sale deed Ex RA produced by the respondents is admissible in evidence, but the respondents have not proved by leading any evidence that the land covered by sale deed Ex. RA is comparable to the acquired land.

7. The State has acquired land of many persons. The perusal of para-3 of the impugned award would show that in 18 cases, land measuring 3 Biswas to 3 Bighas 2 Biswas per case was acquired. The acquired land was owned by several persons, which is clear from the memo of parties in the above appeals. Thus, land holding per owner in the acquired land was very small. The individual owner is concerned about his acquisition, therefore, no fault can be found with the impugned award when the learned District Judge while assessing the market value of the acquired land has taken into consideration sale deeds Ex. PW 3/A and Ex. PW 3/B of 2 Biswas land in each sale deed.

8. The learned District Judge after taking into consideration sale deeds Ex. PW 3/A and Ex. PW 3/B applied 50% deduction and has assessed the market value of the cultivated land at Rs. 30,000/- per Bigha and Rs. 15,000/- per Bigha of uncultivated land. The learned District Judge has rightly appreciated the material on record and has correctly assessed the market value of the acquired land. The

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learned Advocate General has failed to make out any case for interference regarding the assessment of the market value of the acquired land, as assessed by the learned District Judge.

9. The learned District Judge has awarded 12% per annum additional compensation, under Section 23 (1-A) of the Act, w.e.f. 1.5.1981 to 15.11.1988. Additional compensation at the rate of 12% per annum under Section 23 (1-A) of the Act is payable from the date of publication of Notification, under Section 4 of the Act. In the present case, the Notification under Section 4 of the Act, was published on 23.3.1985, therefore, additional compensation at the rate of 12% per annum, under Section 23 (1-A) of the Act is payable to the land owners from 23.3.1985 to 15.11.1988 the date of the award of the Collector and not from 1.5.1981 to 15.11.1988, as awarded by the learned District Judge. The impugned award in each case to this extent is accordingly modified.

10. The result of the above discussion is, all the appeals being RFA Nos. 186, 187, 188, 189, 190, 191, 192, 193, 195, 196, 197, 198, 210, 211, 212, 213 of 2000 and RFA No. 41 of 2001, are dismissed. The impugned award in each appeal is upheld subject to modification that additional compensation at the rate of 12% per annum under Section 23 (1-A) of the Act shall be payable to petitioners/ land owners w.e.f. 23.3.1985 to 15.11.1988 instead of 1.5.1981 to 15.11.1988 in each case. No costs.

August 6, 2007.
(Hem)

(Kuldip Singh)
Judge.

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1. RFA No. 186 of 2000.
Land Acquisition Collector & anr. Appellants.
Vs.
Bansi Ram Respondent.
2. RFA No. 187 of 2000.
Land Acquisition Collector & anr. Appellants.
Vs.
Rajinder Kumar & ors. Respondents.
3. RFA No. 188 of 2000.
Land Acquisition Collector & anr. Appellants.
Vs.
Rajinder Kumar & anr. Respondents.
4. RFA No. 189 of 2000.
Land Acquisition Collector & anr. Appellants.
Vs.
Rama Respondent.
5. RFA No. 190 of 2000.
Land Acquisition Collector & anr. Appellants.
Vs.
Batelu Respondent.
6. RFA No. 191 of 2000.
Land Acquisition Collector & anr. Appellants.
Vs.
Budhi Singh & ors. Respondents.
7. RFA No. 192 of 2000.
Land Acquisition Collector & anr. Appellants.
Vs.
Sunka Ram & anr. Respondents.
8. RFA No. 193 of 2000.
Land Acquisition Collector & anr. Appellants.
Vs.
Kanshi Ram & ors. Respondents.
9. RFA No. 195 of 2000.
Land Acquisition Collector & anr. Appellants.
Vs.
Barfi Devi Respondent.

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10. RFA No. 196 of 2000.
Land Acquisition Collector & anr. Appellants.

Vs.
Shanti & ors. Respondent.
11. RFA No. 197 of 2000.
Land Acquisition Collector & anr. Appellants.

Vs.
Gopala Ram Respondent.
12. RFA No. 198 of 2000.
Land Acquisition Collector & anr. Appellants.

Vs.
Nanku Respondent.
13. RFA No. 210 of 2000.
Land Acquisition Collector & anr. Appellants.

Vs.
Mahant Ram & ors. Respondents.
14. RFA No. 211 of 2000.
Land Acquisition Collector & anr. Appellants.

Vs.
Sarwan & anr. Respondents.
15. RFA No. 212 of 2000.
Land Acquisition Collector & anr. Appellants.

Vs.
Dharam Singh Respondent.
16. RFA No. 213 of 2000.
Land Acquisition Collector & anr. Appellants.

Vs.
Brahmi Respondent.
17. RFA No. 41 of 2001.
Land Acquisition Collector & anr. Appellants.

Vs.
Kishanu & ors. Respondents.